

JS 44 (Rev. 06/17)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

NEW PRIME, INC.

(b) County of Residence of First Listed Plaintiff **Greene County, MO**
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Cynthia M. Certo, Esquire
Ryan, Brown, Berger & Gibbons, P.C. (215) 564-3800
1600 Market Street, 14th Floor, Philadelphia, PA 19103-7240

DEFENDANTS

TRANSERVICE LOGISTICS, INC.

County of Residence of First Listed Defendant **Nassau County, NY**
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government is Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|--------------------------|------------------------------------|------------------------------------|---|-------------------------|------------------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="radio"/> 1 | <input checked="" type="radio"/> 1 | Incorporated or Principal Place of Business In This State | <input type="radio"/> 4 | <input checked="" type="radio"/> 4 |
| Citizen of Another State | <input checked="" type="radio"/> 2 | <input checked="" type="radio"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="radio"/> 5 | <input checked="" type="radio"/> 5 |

Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="radio"/> 110 Insurance <input type="radio"/> 120 Marine <input type="radio"/> 130 Miller Act <input type="radio"/> 140 Negotiable Instrument <input type="radio"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="radio"/> 151 Medicare Act <input type="radio"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="radio"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="radio"/> 160 Stockholders' Suits <input type="radio"/> 190 Other Contract <input type="radio"/> 195 Contract Product Liability <input type="radio"/> 196 Franchise	<input type="radio"/> 310 Airplane <input type="radio"/> 315 Airplane Product Liability <input type="radio"/> 320 Assault, Libel & Slander <input type="radio"/> 330 Federal Employers' Liability <input type="radio"/> 340 Marine <input type="radio"/> 345 Marine Product Liability <input type="radio"/> 350 Motor Vehicle <input type="radio"/> 355 Motor Vehicle Product Liability <input type="radio"/> 360 Other Personal Injury <input type="radio"/> 362 Personal Injury - Medical Malpractice	<input type="radio"/> 365 Personal Injury - Product Liability <input type="radio"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="radio"/> 368 Asbestos Personal Injury Product Liability <input type="radio"/> 370 Other Fraud <input type="radio"/> 371 Truth in Lending <input checked="" type="radio"/> 380 Other Personal Property Damage <input type="radio"/> 385 Property Damage Product Liability	<input type="radio"/> 422 Appeal 28 USC 158 <input type="radio"/> 423 Withdrawal 28 USC 157 <input type="radio"/> 820 Copyright <input type="radio"/> 830 Patent <input type="radio"/> 835 Patent-Abbreviated New Drug Application <input type="radio"/> 840 Trademark <input type="radio"/> 861 HIA (1395ff) <input type="radio"/> 862 Black Lung (923) <input type="radio"/> 863 DIWC/DIWW (405(g)) <input type="radio"/> 864 SSID Title XVI <input type="radio"/> 865 RS(405(g))	<input type="radio"/> 375 False Claims Act <input type="radio"/> 376 Qui Tam (31 USC 3729(a)) <input type="radio"/> 400 State Reapportionment <input type="radio"/> 410 Antitrust <input type="radio"/> 430 Banks and Banking <input type="radio"/> 450 Commerce <input type="radio"/> 460 Deportation <input type="radio"/> 470 Racketeer Influenced and Corrupt Organizations <input type="radio"/> 480 Consumer Credit <input type="radio"/> 490 Cable/Sat TV <input type="radio"/> 850 Securities/Commodities! Exchange <input type="radio"/> 890 Other Statutory Actions <input type="radio"/> 891 Agricultural Acts <input type="radio"/> 893 Environmental Matters <input type="radio"/> 895 Freedom of Information Act <input type="radio"/> 896 Arbitration <input type="radio"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="radio"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	FEDERAL TAX SUITS
<input type="radio"/> 210 Land Condemnation <input type="radio"/> 220 Foreclosure <input type="radio"/> 230 Rent Lease & Ejectment <input type="radio"/> 240 Torts to Land <input type="radio"/> 245 Tort Product Liability <input type="radio"/> 290 All Other Real Property	<input type="radio"/> 440 Other Civil Rights <input type="radio"/> 441 Voting <input type="radio"/> 442 Employment <input type="radio"/> 443 Housing/Accommodations <input type="radio"/> 445 Amer.w/Disabilities - Employment <input type="radio"/> 446 Amer. w/Disabilities - Other <input type="radio"/> 448 Education	<input type="radio"/> 463 Alien Detainee <input type="radio"/> 510 Motions to Vacate Sentence <input type="radio"/> 530 General <input type="radio"/> 535 Death Penalty <input type="radio"/> 540 Mandamus & Other <input type="radio"/> 550 Civil Rights <input type="radio"/> 555 Prison Condition <input type="radio"/> 560 Civil Detainee - Conditions of Confinement	<input type="radio"/> 700 Fair Labor Standards Act <input type="radio"/> 720 Labor/Management Relations <input type="radio"/> 740 Railway Labor Act <input type="radio"/> 751 Family and Medical Leave Act <input type="radio"/> 790 Other Labor Litigation <input type="radio"/> 791 Employee Retirement Income Security Act	<input type="radio"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="radio"/> 871 IRS-Third Party 26 USC 7609
		<input type="radio"/> 462 Naturalization Application <input type="radio"/> 465 Other Immigration Actions		

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 USC 1332(a)

Brief description of cause:

Property damage resulting from multi-vehicle collisions on 2/13/16 in Lebanon County, PA

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION
UNDERRULE 23, F.R.Cv.P.

DEMAND\$
151,905.01

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes ☒ No

VIII. RELATED CASE(S)

(See instructions):

JUDGE Chief Judge Christopher Conner

DOCKET NUMBER see attached list

DATE

2/1/2018

FOR OFFICE USE ONLY

SIGNATURE OF ATTORNEY FOR RECORD

RECEIPT#

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

RELATED CASES:

1:18-cv-00187-CCC (M.D. Pa.)	Petit v. Penske Truck Leasing Corp., <i>et al.</i>
1:18-cv-00064-CCC (M.D. Pa.)	Lesko v. Old Dominion Freight Lines, <i>et al.</i>
1:16-cv-02181-CCC (M.D. Pa.)	Montemarano v. Penske Truck Leasing Corp., <i>et al.</i>
2:16-cv-03278 –KSH-CLW (DNJ)	Jakubik v. Old Dominion Freight Lines, <i>et al.</i>
Lebanon County 2018-00180	Figueroa v. OMG Trucking Corp.
Lebanon County 2018-00059	Figueroa v. Kinnick, <i>et al.</i>
Lebanon County 2017-01788	Figueroa v. defendants
Lebanon County 2017-00059	Pear v. Fantom, <i>et al.</i>
Philadelphia County 170601175	Casale v. Penske Truck Leasing, <i>et al.</i>
Philadelphia County 170601412	Ruck-Perry v. LoneStar, <i>et al.</i>
Philadelphia County 170104867	Bellacicco v. Penske Truck Leasing Co., <i>et al.</i>
Philadelphia County 171002976	Pettit v. Penske Truck Leasing Corp., <i>et al.</i>

DEFENDANT LIST:

TRANSERVICE LOGISTICS, INC. 5 Dakota Drive New Hyde Park, NY 11042	ESTATE OF ALFRED D. KINNICK, 1015 Washington College Station Road Limestone, TN 37681
FEDEX GROUND PACKAGE SYSTEM, INC. 1000 FedEx Drive Moon Township, PA 15108	OMG TRUCKING CORP. 3609 La Manna Drive Sterling Heights, MI 48310 SHOTA MANVELIDZE 12 Francis Avenue, Apt. 2B Nyack, NY 10960
OLD DOMINION FREIGHT LINE 500 Old Dominion Way Thomasville, NC 27360	DANNY FANTOM 58 Jamestown Road Shippensburg, PA 17257
TOTAL TRANSPORTATION OF MISSISSIPPI LLC 125 Riverview Drive Richland, MS 39218	CLARENCE HERMAN 387 Calloway Road Philadelphia, TN 37846
LANDES TRUCKING 4366 Mount Pleasure Street North Canton, OH 44720	DANIEL MOLLENKOPF 407 Golf Avenue Ellwood City, PA 16117

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

NEW PRIME, INC.	:	
2740 Mayfair Avenue	:	
Springfield, MO 65803	:	
Plaintiff,	:	
	:	
v.	:	NO.
	:	
TRANSERVICE LOGISTICS, INC.	:	
5 Dakota Drive	:	
New Hyde Park, NY 11042	:	
	:	
ESTATE OF ALFRED D. KINNICK,	:	
DECEASED	:	
1015 Washington College Station Road	:	
Limestone, TN 37681	:	
	:	
and	:	
	:	
FEDEX GROUND PACKAGE	:	
SYSTEM, INC.	:	
1000 FedEx Drive	:	
Moon Township, PA 15108	:	
	:	
OMG TRUCKING CORP.	:	
3609 La Manna Drive	:	
Sterling Heights, MI 48310	:	
	:	
SHOTA MANVELIDZE	:	
12 Francis Avenue, Apt. 2B	:	
Nyack, NY 10960	:	
	:	
and	:	
	:	
OLD DOMINION FREIGHT LINE	:	
500 Old Dominion Way	:	
Thomasville, NC 27360	:	
	:	
DANNY FANTOM	:	
58 Jamestown Road	:	
Shippensburg, PA 17257	:	
	:	
and	:	

LANDES TRUCKING	:
4366 Mount Pleasure Street	:
North Canton, OH 44720	:
	:
DANIEL MOLLENKOPF	:
407 Golf Avenue	:
Ellwood City, PA 16117	:
	:
and	:
	:
TOTAL TRANSPORTATION	:
OF MISSISSIPPI LLC	:
125 Riverview Drive	:
Richland, MS 39218	:
	:
CLARENCE HERMAN	:
387 Calloway Road	:
Philadelphia, TN 37846	:

CIVIL ACTION COMPLAINT

Plaintiff, New Prime, Inc., (hereinafter “Plaintiff”) by its counsel, Ryan, Brown, McDonnell, Berger & Gibbons, P.C., hereby files this Civil Action Complaint in the above-captioned matter as follows:

PARTIES

1. Plaintiff, New Prime, Inc., is a business incorporated in the State of Nebraska with a principal place of business located in Springfield, Missouri.

2. At all relevant times, Plaintiff was the registered owner of a silver 2016 Freightliner (VIN: 3AJJGLD58GSHC3025) bearing Missouri license plate 31AP8G, and a Wabash trailer (VIN: 1JJV532B6FL840211; also identified as New Prime TRL#153627).

3. The aforementioned vehicle was operated under the authority of Plaintiff, and hauling a load of seafood at the time of a multi-vehicle accident which occurred on February 13, 2016, on I-78 westbound in Bethel Township, Lebanon County, Pennsylvania.

4. Defendant, Old Dominion Freight Line (“Old Dominion”) is a corporation or other business entity incorporated under the laws of Delaware with its principal place of business in Thomasville, North Carolina.

5. At all relevant times, Defendant Old Dominion acted by itself, and by and through its drivers, agents, servants and/or employees.

6. At all relevant times, Defendant Old Dominion was the owner or lessee of a white 2016 Freightliner (VIN: 1FUBGDD55GLG20010), bearing North Carolina license plate MR2619.

7. At all relevant times, Defendant Old Dominion was the owner or lessee of a tractor-trailer unit including a green 2016 Freightliner sleeper cab (VIN: 1FUBGK057GLGV9798), bearing North Carolina license plate MN6259, and hauling double Wabash trailers.

8. The aforementioned vehicles were operated under the authority of Defendant Old Dominion.

9. Defendant, Danny Fantom, is an adult person and citizen of the Commonwealth of Pennsylvania.

10. At all relevant times, Defendant Fantom was the agent, servant and/or employee of Defendant Old Dominion.

11. At all relevant times, Defendant Fantom and/or another agent, servant and/or employee of Defendant Old Dominion, operated the aforementioned vehicles, and were acting within the course and scope of his/her/their employment with Defendant Old Dominion.

12. Defendant, Transervice Logistics, Inc. (“Transervice”) is a corporation or other business entity incorporated under the laws of the State of New York with its principal place of

business in New Hyde Park, New York.

13. At all relevant times, Defendant Transervice acted by itself and by and through its drivers, agents, servants and/or employees.

14. At all relevant times, Defendant Transervice was the owner or lessee of a tractor-trailer unit including a white 2016 Freightliner sleeper cab (VIN: 1FUJGLD57GLHR3552), bearing Illinois license plate 2383128, and hauling a Wabash trailer.

15. At all relevant times, the aforementioned tractor-trailer was operated under the authority of Defendant Transervice.

16. At all relevant times, the operator of the aforementioned tractor-trailer, ALFRED D. KINNICK (now deceased) was an agent, servant and/or employee of Defendant Transervice, and was acting within the course and scope of his employment with Defendant Transervice.

17. Defendant, FedEx Ground Package System, Inc. ("FedEx") is a corporation or other business entity incorporated under the laws of the State of Delaware, with its principal place of business in Moon Township, Pennsylvania.

18. Defendant, OMG Trucking Corp. ("OMG"), is a corporation or other business entity incorporated under the laws of the State of Michigan, with its principal place of business in Sterling Heights, Michigan.

19. At all relevant times, the aforementioned tractor-trailer was operated under the authority of Defendant FedEx and/or Defendant OMG, pursuant to a contractor operating agreement.

20. At all relevant times, Defendants FedEx and OMG acted by themselves and by and through their drivers, agents, servants and/or employees.

21. At all relevant times, Defendant FedEx and/or Defendant OMG was the owner or lessee of a tractor-trailer unit including double Wabash trailers being hauled by a white 2009 Volvo sleeper cab (VIN: 4V4NC9TH59N279615), bearing Indiana license plate 900014.

22. Defendant, Shota Manvelidze is an adult person and citizen of the State of New York.

23. At all relevant times, Defendant Manvelidze was the agent, servant and/or employee of Defendant FedEx.

24. At all relevant times, Defendant Manvelidze was the employee of Defendant OMG.

25. At all relevant times, Defendant Manvelidze operated the aforementioned tractor-trailer and was acting within the course and scope of his employment with Defendant OMG and Defendant FedEx.

26. At all relevant times, Defendant Manvelidze operated the aforementioned tractor-trailer in furtherance of the business of Defendant FedEx.

27. Defendant, Landes Trucking, LLC ("Landes") is a limited liability corporation or other business entity incorporated under the laws of Delaware with its principal place of business in Thomasville, North Carolina.

28. At all relevant times, Defendant Landes acted by itself and by and through its drivers, agents, servants and/or employees.

29. At all relevant times, Defendant Landes was the owner or lessee of a tractor-trailer unit including a white 2013 Freightliner sleeper cab (VIN: 4V4NC9EH2DN136224), bearing Illinois license plate P814492, and hauling a silver tanker.

30. At all relevant times, the aforementioned tractor-trailer was operated under the authority of Defendant Landes.

31. At all relevant times, the operator of the aforementioned tractor-trailer was an agent, servant and/or employee of Defendant Landes, and was acting within the course and scope of his employment with Defendant Landes.

32. Defendant, Total Transportation of Mississippi ("Total Transportation") is a limited liability corporation or other business entity incorporated under the laws of the State of Mississippi, with its principal place of business in Richland, Mississippi.

33. At all relevant times, Defendant Total Transportation acted by itself and by and through its drivers, agents, servants and/or employees.

34. At all relevant times, Defendant Total Transportation owned or leased a tractor-trailer unit including a red 2015 Freightliner (VIN: 3AKJGLD50FSGH7513), bearing Oklahoma license plate VQ971, and hauling a trailer.

35. At all relevant times, said tractor trailer was operated under the authority of Defendant Total Transportation.

36. Defendant, Clarence Herman, is an adult person and citizen of the State of Tennessee.

37. At all relevant times, Defendant Herman was the agent, servant and/or employee of Defendant Total Transportation.

38. At all relevant times, Defendant Herman operated the aforementioned tractor-trailer, and was acting within the course and scope of his employment with Defendant Total Transportation.

JURISDICTION AND VENUE

39. The Court has proper jurisdiction over this case pursuant to 28 U.S.C. § 1332 because complete diversity of citizenship exists between Plaintiff and Defendants, and the amount in controversy is in excess of Seventy-Five Thousand Dollars (\$75,000), exclusive of interest and costs.

40. Venue is proper in the United States District Court for the Middle District of Pennsylvania pursuant to 28 U.S.C. § 1391 because a substantial part of the events and/or omissions giving rise to this claim occurred in Lebanon County, Pennsylvania.

FACTS

41. The allegations set forth above are incorporated by reference as if set forth in full herein

42. On or about February 13, 2016, at approximately 9:30 a.m., all of the vehicles identified herein were traveling in the westbound lanes of Interstate 78 (I-78) at or near mile marker 7.4 in Bethel Township, Lebanon County, Pennsylvania.

43. On or about the above date and time, Defendant Old Dominion, through the negligent actions of its driver and/or Defendant Fantom (including, but not limited to, changing lanes when it was not safe to do so), negligently lost control of white 2016 Freightliner tractor-trailer bearing North Carolina license plate MR2619, causing it to slide and strike other vehicles.

44. As a result, Defendant Old Dominion's white 2016 Freightliner tractor-trailer bearing North Carolina license plate MR2619 came to rest in the right travel lane of westbound I-78, negligently blocking the right travel lane.

45. On or about the above date and time, Defendants FedEx and OMG, through the negligent actions of Defendant Manvelidze (including but not limited to suddenly and without warning slowed and stopped in the left travel lane of westbound-I-78, approximately 250 feet in front of the Old Dominion tractor-trailer), thereby blocking the left travel lane.

46. On or about the above date and time, Defendant Transervice, through the negligent actions of its driver Alfred D. Kinnick (now deceased), including but not limited to driving too fast for conditions and negligently using a cell phone while driving, struck the FedEx tractor-trailer and pushed it into a “jackknife” position, creating a total blockage of all westbound travel lanes of I-78.

47. The operator of Plaintiff New Prime’s tractor-trailer, taking note of windy and snowy weather conditions at the time, as well as the “jackknifed” FedEx tractor-trailer ahead, slowed the New Prime tractor-trailer and brought it to a controlled stop in the center median without striking any other vehicles or objects.

48. On or about the above date and time, Defendant Landes, through the negligent actions of Defendant Mollenkopf (including but not limited to driving too fast for conditions), veered to the left to avoid the blocked travel lanes, and struck at least one passenger vehicle and the rear of New Prime’s stopped trailer, causing damage to New Prime’s trailer and its cargo.

49. On or about the above date and time, Defendant Total Transportation, through the negligent actions of Defendant Herman (including but not limited to driving too fast for conditions), veered to the left to avoid the blocked travel lanes, striking New Prime’s trailer at a high rate of speed, causing the New Prime unit to roll over on its passenger side, and causing damage to New Prime’s trailer, its cargo, and the roadway and surrounding environment.

50. On or about the above date and time, Defendant Old Dominion, through the

negligent actions of its driver and/or Defendant Fantom (including, but not limited to, driving too fast for conditions), negligently lost control of the green 2016 Freightliner sleeper cab bearing North Carolina license plate MN6259 and hauling double Wabash trailers, causing the unit to slide to the left and jackknife, striking other vehicles and the rear of New Prime's trailer, causing damage to New Prime's trailer, its cargo, and the roadway and surrounding environment.

51. The aforesaid damages to New Prime was caused by negligent and carelessness of the Defendants, acting jointly and severally, including but not limited to the following acts or omissions:

- (a.) Failing to operate a motor vehicle under proper and adequate control;
- (b.) Suddenly slowing and/or stopping on travel lanes;
- (c.) Blocking travel lanes on the highway;
- (d.) Failing to keep a proper lookout for hazards and other vehicles on the roadway;
- (e.) Using a cell phone while driving in violation of Federal and Pennsylvania law;
- (f.) Driving too fast for conditions then existing;
- (g.) Failing to keep a proper lookout for the Plaintiff's vehicle;
- (h.) Failing to have due regard for the point and position of Plaintiff's vehicle;
- (i.) Violating the rules of the road, the ordinances of Bethel Township and Lancaster County, the Motor Vehicle Code of the Commonwealth of Pennsylvania, the Motor Carrier Safety Regulations and other Federal rules and laws governing the safe operation of motor vehicle and commercial motor vehicles;
- (j.) Failing to hire competent employees and commercial drivers who were qualified to safely operate a tractor-trailer;
- (k.) Failing to properly train and supervise employees and commercial drivers;

- (l.) Failing to establish, implement, and enforce policies and procedures for the safe operation of a tractor-trailer;
- (m.) Failing to properly inspect and/or maintain a commercial vehicle.

52. As a result of aforesaid negligence of the Defendants, Plaintiff incurred costs in the form of specialized cleanup expenses, towing and storage, plus severe damage to its trailer and the loss of cargo, totaling at least \$151,905.01, plus continuing loss of use:

\$ 59,574.92 cost to repair trailer - see Exhibit "A," Quote for Repair, attached;
\$ 26,200.00 towing/4 days storage – see Exhibit "B," V&M Towing invoice, attached;
\$51, 908.43 cargo loss, minus salvage – see Exhibit "C," cargo documents, attached;
\$ 14,221.66 clean up costs – see Exhibit "D," PES invoice, attached

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter judgment in its favor and against Defendants, individually, jointly and severally, for \$151,905.01, together with any further loss-of-use damages, costs, attorneys' fees, and such other relief as the law permits.

Respectfully submitted,

RYAN, BROWN, McDONNELL,
BERGER & GIBBONS, P.C.

By: /s/ Cynthia M. Certo
Cynthia M. Certo, Esq.
PA Identification No. 72651
1600 Market Street, 14th Floor
Philadelphia, PA 19103-7240
(215) 564-3800
certo@ryanbrown.com

Attorney for Plaintiff,
NEW PRIME, INC.